

UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF GEORGIA

WILLIAM H. CARTER,

Plaintiff(s),

v.

NCO FINANCIAL SYSTEMS,
INC.,

Defendant(s).

11-CV-00107

DEFENDANT'S MOTION TO EXTEND DISCOVERY DEADLINES

Defendant, NCO Financial Systems, Inc. (NCO), through counsel and pursuant to Local Rule 26.2, moves the court to extend the discovery deadline 60 days, to January 18, 2013. The proposed amended scheduling order is attached hereto as Exhibit "A." NCO submits the following in support of its motion:

1. On January 6, 2012, plaintiff filed this action against NCO alleging NCO violated the Fair Credit Reporting Act (FCRA), 15 U.S.C. § 1681 *et seq.* (Dkt. No. 5).
2. On August 15, 2012, plaintiff moved for leave to amend his complaint to add 2 new causes of action under the Fair Debt Collection Practices Act (FDCPA), 15 U.S.C. § 1692 *et seq.*, and the Telephone Consumer Protection Act claim (TCPA), 47 U.S.C. § 227 *et seq.* (Dkt. No. 18).
3. On August 23, 2012, NCO moved for summary judgment on plaintiff's FCRA cause of action. (Dkt. No. 19).

4. On October 1, 2012, the Court granted plaintiff's motion to amend. (Dkt. No. 31).

5. On October 18, 2012, NCO moved to dismiss plaintiff's FDCPA cause of action and answered the remaining claims in plaintiff's second amended complaint. (Dkt. No. 37).

6. To date, the Court has not ruled on either of NCO's pending motions.

7. NCO requests the Court extend the November 16 discovery deadline for several reasons. Upon the filing of plaintiff's amended complaint, NCO immediately and diligently began discovery relating to plaintiff's additional claims. However, NCO's defenses are dependent upon discovery from several third parties including the original creditor, the telephone service providers, and several third party witnesses which is taking time to complete. NCO needs additional time to work with these third parties under the parameters of Federal Rules and obtain the necessary discovery.

8. Further, NCO expects the scope of the discovery needed will be drastically affected by this Court's ruling on the pending motions. NCO has pending dispositive motions on 2 out of 3 of plaintiff's pending claims. If the Court grants NCO's motions, the issues in the case and the scope of discovery needed will be narrowed.

9. This court has the "sound discretion" to decide civil discovery matters. *In re Applegate*, at *3 quoting *U.S. v. R. Enterprises, Inc.*, 498 U.S. 292, 305 (1991). And, as expressly stated in Local Rule 26.2, upon motion and for good cause shown an extension of time may be granted if the motion is filed prior to the expiration of the discovery period.

10. Thus, in light of the outstanding discovery, November 16, 2012 discovery cutoff, and the pending motions, NCO respectfully requests this Court exercise its discretion and extend discovery 60 days. The extension is not for dilatory purposes and will not prejudice plaintiff. Conversely, the extension is necessary for NCO to defend plaintiff's claims.

WHEREFORE, NCO respectfully requests this Court grant NCO's motion, extend the discovery deadline to January 18, 2013, enter the attached proposed amended scheduling order, and for such other relief as this Court deems proper.

Respectfully submitted,

HALL, BOOTH, SMITH, P.C.

s/ Glenn E. Jones

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CERTIFICATE OF SERVICE

I hereby certify that on October 25, 2012, I electronically filed the foregoing:
Defendant's Motion to Extend Discovery Deadlines with the Clerk of Court for the Southern District of Georgia by using the CM/ECF System. I also certify that I have mailed by United States Postal Service the document and a copy of the Notice of Electronic Filing to the following non-CM/ECF participants:

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